

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	17-35559 (Austin) and 17-35560 (Artis/Dotson)		
District Court/Agency Case Number(s):	6:15-cv-02257-MC (Austin) and 6:16-cv-00647-MC (Artis/Dotson)		
District Court/Agency Location:	U.S. District Court for the District of Oregon		
Case Name:	Austin (35559) and Artis/Dotson (35560)	v.	University of Oregon, et al.
If District Court, docket entry number(s) of order(s) appealed from:	57 (and 56, 55, and 36)		
Name of party/parties submitting this form:	Counsel for Plaintiff Austin, and counsel for Plaintiffs Artis/Dotson		

Please briefly describe the dispute that gave rise to this lawsuit.

The Plaintiffs were nationally recognized high school basketball players who were widely projected to be first-round picks in the NBA Draft. They were recruited by the University of Oregon and joined the Oregon Ducks men's basketball team. After a student falsely accused them of sexual assault, public pressure to punish males accused of sexual assault led the University and other Defendants to take punitive action against them solely on the basis of their sex/gender, and without providing due process. The Plaintiffs alleged violations of Title IX; 42 U.S.C. § 1983; and Oregon state law, and seek millions of dollars in damages. As a part of their claims, plaintiffs allege their four-year scholarships, valued at approximately \$40,000 annually per plaintiff, constituted a recognized property interest requiring due process to terminate.

Briefly describe the result below and the main issues on appeal.

The District Court dismissed the Plaintiffs' Third Amended Complaint, as well as a set of previous Complaints, holding that the Plaintiffs had failed to state a claim. The main issue on appeal is whether the District Court erred in doing so. The Plaintiffs contend that they have stated viable, and in fact compelling, claims for violations of Title IX; 42 U.S.C. § 1983; and Oregon state law, and the District Court committed legal error in dismissing their claims. (The foregoing statement is not in any way meant to limit the issues on appeal.)

Describe any proceedings remaining below or any related proceedings in other tribunals.

The Defendants have indicated that they may be filing a motion for costs and/or attorney's fees in the District Court

Provide any other thoughts you would like to bring to the attention of the mediator.

N/A

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses
☒ is attached (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and
☒ service list may result in sanctions, including dismissal of the appeal.

Signature /s/ Alan C. Milstein (for Austin), /s/ Brian Michaels (for Artis/Dotson)

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for Brandon Austin, Dominic Artis, and Damyeon Dotson

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

AUSTIN/ARTIS AND DOTSON V. UNIVERSITY OF OREGON, ET AL. SERVICE LIST

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¹ We have been advised that Naomi Haslitt will be entering an appearance as lead counsel for the Defendants, in place of Michelle Barton Smigel.

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